

PLANNING BOARD OF THE CITY OF BANGOR

MEETING OF JULY 20, 2004

MINUTES

Board Members Present

**Robert Guerette, Chairman
David Clark
Hal Wheeler
Ryan King
Nathaniel Rosenblatt**

City Staff Present:

**Katherine Weber
James Ring
David Gould
Peter Witham**

Chairman Guerette called the meeting to order at 7:00pm, and asked if any member of the Board wanted to remove any item from the Consent Agenda.

Mr. Rosenblatt indicated that he wanted to hear so more explanations on item number 2. Mr. King indicated he had some questions about item number 1.

Mr. Wheeler asked whether the Board needed to vote on removing these items from the Consent Agenda. Chairman Guerette indicated it was the purview of any member to have an item removed from the Consent Agenda.

Item No. 1: Final Subdivision Plan Revision approval to revise Lot 9 in the Fairways Subdivision. James and Michelle Beardsley, applicants._

Mr. Dick Day representing James and Michelle Beardsley indicated the proposed amendment to the Subdivision Plan was to accommodate a structure that encroached a stormwater easement. The structure encroached the easement area by approximately 4 and one-half feet. In talking with various City Departments it was determined that a revision of the Subdivision Plan would be the best remedy.

Mr. Rosenblatt moved to approve the revised Final Subdivision Plan of Fairways Lot 9 for James and Michelle Beardsley. Mr. Clark seconded and the board voted unanimously to approve the final plan revision.

Item No. 2: Site Development Plan approval to construct a 13,569-square foot retail building in a Shopping and Personal Service District. JBN Properties Inc, applicant.

Mr. Don Becker indicated he represented JBN Realty Associates proposing to construct a new building on Longview Drive.

Mr. Rosenblatt asked if he could explain the details of the right of way on the property and what impact the development of the right of way would have on his site development plan.

Mr. Becker indicated the right of way serves land further back towards Chase Road and should any development there desire a second access point this right of way would give them an access on Longview Drive. Mr. Rosenblatt asked should the use of the right of way require parking and other elements to be moved they were prepared to do so? Mr. Becker responded the parking that would be lost, are excess spaces, above the minimum required spaces.

Mr. Rosenblatt moved to approve the Site Development Plan of JBN Realty Associates Mr. King seconded and the board voted unanimously to approve the site development plan.

PUBLIC HEARINGS

Item No. 3: To amend the Land Development Code by changing a portion of a parcel of land located at 200V Target Industrial Circle from Industry and Service District to Urban Industry District. Said portion of parcel containing approximately 9.3 acres. Albion Dorr, Jr., applicant. C.O. # 04-221.

Chairman Guerette opened the public hearing and asked for a brief presentation from the applicant of his representative.

Mr. David Web of Web's RV indicated they were seeking the zone change to store and repair recreational vehicles on the site.

Chairman Guerette asked for any other proponents. Being none he asked for any opponents. Again being none he asked for Staff comments.

Planning Officer Weber indicated the applicant, Albion Dorr, Jr., requests a Land Development Code Map Amendment for 9.3 acres of a 13.94-acre parcel from Industry and Service District to Urban Industry District. Ms Weber noted based on a determination of the Code Enforcement Office the RV storage and repair use is not allowed in the Industry and Service District. The present Dorr property is split into three different zoning districts.

The Dorr parcel being considered for rezoning from Industry and Service District to Urban Industry District is designated for industrial uses on the Comprehensive Plan 2000 "Land Use Concepts Map." Both the I&S and UID districts allow industrial and commercial uses. The Land Use Concepts Map is a conceptual representation of the existing land uses and policies for this particular area of the City that has been designated for industrial and commercial activities.

The dominant zoning policies for this area are Industry and Service, Urban Industry and General Commercial and Service. The Dorr property is somewhat unique in that it has all three of these zoning policy district designations on one parcel.

The rezoning proposal is to change from one industrial zoning designation to another industrial zoning designation to accommodate a proposed use of the property. Mr. Dorr is not asking to rezone that portion of his property that is zoned General Commercial and Service District near Hammond Street. Although the zoning policy for the middle portion of Mr. Dorr's property is Industry and Service, the lower portion is already zoned Urban Service District consistent with the Comprehensive Plan zoning policy.

Staff recommends that the Planning Board recommend that the City Council adopt the requested zone change from Industry and Service District to Urban Industry District for 200V Target Industrial Circle as indicated in CO #04-221.

Mr. Rosenblatt noted that the permitted and conditional uses in the Urban Industry District were quite broad. He asked if consideration was given to a contract rezoning? Ms Weber indicated that contract zoning should not include specific use restrictions.

Mr. Wheeler asked for some examples of uses that might be problematic.

Mr. Rosenblatt indicated tank farms, solid waste disposal facilities, petroleum storage, junkyards, rail-yards.

Mr. Clark moved to recommend City Council adopt Council Order 04-221 200V Target Industrial Circle, Alan Dorr applicant.

Mr. Wheeler seconded and the Board voted 4 to 1 to recommend the City Council adopted C.O. 04-221.

Item No. 4: Conditional Use/Site Development Plan approval to add a drive-thru window at 38 Bangor Mall Boulevard in a Shopping and Personal Service District. Hamover Associates, applicant.

Chairman Guerette opened the public hearing and asked the applicant or their representative to make a brief presentation.

Mr. Andrew Hamilton representing Hamover Associates indicated they were present to seek Conditional Use approval to add a drive up window to the existing restaurant at 38 Bangor Mall Boulevard.

Attorney Hamilton reviewed the Conditional Use Standards and the plan's compliance with those standards. He noted that they had a lease from the City of 10 feet to meet front yard setback of 50 feet.

He indicated that traffic analysis from Michael Waugh, SEA Engineers addressed capacity at the intersection Bangor Mall Boulevard. Level of Service D or better could be provided and level of service B could be achieved if certain maintenance was performed. Adequate parking and loading is provided on site. Attorney Hamilton noted other drive-thru restaurants in the immediate area.

In conclusion, he indicated queuing for 7 cars was demonstrated at the site.

Mr. Clark asked if the site would sell items other than coffee, would there be inside dining. The applicant indicated there would be.

Mr. Rosenblatt asked if the lease with the City had been executed? Attorney Hamilton indicated it had. Mr. Rosenblatt asked it made sense to condition the approval on lease being maintained for duration of use. Attorney Hamilton indicated it did.

Mr. Rosenblatt indicated in discussions with the City Legal Office he felt it was reasonable for the Planning Board to request queuing for more than five cars if they felt it necessary. He asked what was the basis that the applicant felt seven queuing spaces are adequate? Attorney Hamilton responded that the traffic engineer was comfortable with site layout and separation of queued cars and the closest the traffic signal. Other more general discussions of queuing seems to indicate seven spaces is about right.

Mr. Rosenblatt indicated that the directional arrows on the plan seems to make all traffic go through the drive thru.

Stan Plisga the site designer indicated that the intent is only to indicate one-way flow through the drive thru and other traffic can turn around and exit the entrance/egress.

Mr. Wheeler asked if someone could explain what is unreasonable traffic congestion?

Jim Ring, City Engineer indicated intersections are rated as to level of service A through F. A, is free flowing, no delays, F is gridlock. The Maine Department of Transportation has defined level of service D as the minimum reasonable level of service. Mr. Wheeler noted that the Memo indicates some of the signal equipment is malfunctioning and asked who would repair it.

Mr. Ring indicated that the City is responsible to repair it and it will get done. Mr. Wheeler asked if there is a maintenance schedule? Mr. Ring indicated signals are checked semi-annually.

Chairman Guerette asked for any other proponents. Being none he asked for any opponents. Again, being none he closed the public hearing and asked for Staff comments.

Planning Officer Katherine Weber indicated that the applicant, Hamover Associates, requests Conditional Use and Site Development Plan approval to add a drive-up window to the existing 2,640-square foot restaurant for use as a drive-in restaurant located at 38 Bangor Mall Boulevard in a Shopping and Personal Service (S & PS) District.

Drive-in restaurant uses are Conditional Uses in the S&PS District, and must meet two specific conditions of the District (165-101, D (4)). These conditions are:

- (1) Queuing space for five vehicles must be provided for the drive-thru window, and*
- (2) Additional parking must be provided for vehicles where food is to be consumed on-premise or where service to vehicles away from the drive-up windows is contemplated.*

The Conditional Use must also meet the four Standard Conditions in 165-9, A.

Ms Weber indicated staff finds that the development standards and use conditions of the Shopping and Personal Service District have been met, and that the proposed drive-thru restaurant use will not generate unreasonable traffic congestion. The plan provides adequate site improvements, including, utilities, fire protection, drainage, parking, and loading. This use seems appropriate for the location sought, both in terms of the proposed building type, and the proposed use when compared to the other commercial development in the area

Staff recommends approval of both the Conditional Use and Site Development Plan applications for 38 Bangor Mall Boulevard, Hamover Associates, applicant. Ms Weber asked the Board to take two votes, with a condition on the lease as noted by Mr. Rosenblatt.

Mr. Rosenblatt moved to approve the conditional use approval subject to the condition that the easement be maintained in force for the duration of the drive up window conditional use.

Mr. Wheeler seconded, and the Board voted unanimously to approve the Conditional Use as noted.

Mr. Rosenblatt moved to approve the site development plan for 38 Bangor Mall Boulevard, Hamover Associates Applicant.

Mr. Clark seconded and the Board voted unanimously to approve the Site Development Plan for 38 Bangor Mall Boulevard, Hamover Associates Applicant.

APPROVAL OF MINUTES

Item No. 5: Planning Board approval of Minutes.

Mr. Wheeler moved to defer the approval of Minutes to the next regularly scheduled meeting. Mr. Rosenblatt seconded and the Board voted unanimously to continue the Minutes.

Item No. 6: Site Development Plan and Developmental Subdivision Plan approval to construct a 32-Unit residential condominium complex at 84V Summer Street in a Waterfront Development District. Penview Associates, LLC, applicant.

Mr. Rosenblatt requested to be allowed to abstain from voting as his law firm represented the applicant. Mr. King moved to excuse Mr. Rosenblatt from voting on this item. Mr. Clark seconded and the Board voted 4 to 0 to excuse Mr. Rosenblatt from voting on the Penview Associates application.

Chairman Guerette asked if the applicant or their representative would make a brief presentation on the application.

Mr. Steve Ribble of Ames A/E indicated he represented Penview Associates in their site development plan and developmental subdivision. The building will be located on the corner of Railroad and Summer Street. Mr. Ribble explained the existing site development and surrounding uses.

The first floor of the building is parking garage. Additional spaces in a surface lot will total 56 spaces on-site. It is a five-story building, one level being parking. The four floors above the parking level are apartment units. Mr. Ribble stated the project is consistent with Waterfront Master Plan and the Waterfront Development District.

Mr. King asked if the buildings architectural style would fit in with Bangor and surrounding structures?

Roch LeBlanc Ames A/E indicated the building would have a masonry finish in a classical treatment. Non protruding porches were designed so as not to impact the facades overall appearance and maintain the continuity with surrounding buildings.

Chairman Guerette asked if the two-foot set back might cause visual obstruction. Steve Ribble indicated the setback from the actual street travel way is 12 feet. Sight lines should not be obscured. Cars leaving the building can stop before they enter traffic.

Mr. Clark asked when the applicant expected the project to be completed? Mr. Ribble indicated fall 2005.

Chairman Guerette asked for Staff comments.

Planning Officer Weber indicated the applicant, Penview Associates, Inc., requests Site Development Plan approval to construct a five-story, 81,882-square foot building for thirty-two (32) residential units at 84 Summer Street in the Waterfront Development District.

The City-owned site is at the corner of Summer and Railroad Streets, and also fronts on South Street. This site on the Bangor Waterfront Master Plan has been designated for residential development. The City of Bangor is proposing to create a 1.25-acre parcel for this use

Ms Weber noted the proposed site development meets all of the development standards of the Waterfront Development District except for the front building setback along Summer Street. The development agreement provides the applicant a lease for half of the Summer Street Right of way. Staff finds that the application meets the standards of Article XVI, and recommends that the Board grant Site Development Plan approval for 84 Summer Street, Penview Associates, applicant.

Chairman Guerette asked how this residential project fits into the master plan for the waterfront.

Rod McKay, director of Community and Economic Development indicated the project stems from a request for proposals (RFP) issued by the City. This project will fill the Master Plan's housing component on City property. There are other areas to the south which designate housing on private property. Mr. McKay did mention that they have discussed condos on the upper level of a hotel proposal.

Mr. Clark moved to approve Site Development Plan and Developmental Subdivision for 84 Summer Street Penview Associates. Mr. King seconded and the Board voted unanimously to approve the plans.

Other Business

Planning Officer Weber indicated, to follow up on the Board's previous orientation meeting, work on the Comprehensive Plan needs to be discussed. Some efforts have been made to look at mediation on the Penjajawoc Marsh Stream issues to try and achieve overall agreement or consensus. The intent is to try and resolve the continuing debate that permeates many project reviews. The Board will not directly participate due to their role as a quasi-judicial body, but should follow the discussion.

Mr. Rosenblatt indicated that some discussion of the Comprehensive Plan update would be very valuable. Ms. Weber agreed.

Wheeler asked about the mediation's legal authority? Ms Weber indicated it would have none, it would be advisory like a memorandum of understanding. Mr. Wheeler asked how the mediators would be selected? Ms Weber indicated that stakeholders or representatives would represent various groups but all the details have not been fleshed out yet.

Mr. Wheeler asked if this would in any way alter the Planning Board's role in adoption of the Comprehensive Plan. Ms Weber indicated the Board would still be the entity proposing the Comprehensive Plan. Mr. Wheeler asked that the Board be kept posted.

Mr. Rosenblatt asked if other elements would be on hold while this process follows through.

Ms Weber indicated it would not necessarily but there are only some many staff people to manage all the ongoing efforts of the Planning Office.

Chairman Guerette asked that the Board be kept up to date on meetings and discussions. Jim Ring City Engineer indicated discussions on finding common ground were encouraging and it would be good to end of lengthy testimony that presently occurs on every project near the marsh. Chairman Guerette indicated the City should be a stakeholder given its interest in the development and parallel service road construction. Mr. Ring indicated the City's desire is to be a facilitator not a participant in the discussion.

Mr. Guerette reiterated the Board should be advised of any meetings or discussions.

Mr. Rosenblatt indicated he would like to discuss a site visit to the property on Essex and Lancaster on the next Agenda. Then the applicant would be informed and the Board could discuss how it could be accomplished if they were in agreement.

Being no further comments the meeting was adjourned at 8:44 p.m.